

## REMARKS

By this response, no claims have been amended. Claims 1-3, 7-8, 12, 14, 20-23, and 25 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claims 1, 2, 7, 12, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakane et al. (US 6,463,021) in view of Hashimoto (US 6,172,955). This rejection is respectfully traversed. In order to establish a *prima facie* case of obviousness “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2142.

According to the present invention, defect detection is performed on a recording area after user data are recorded. According to the present invention, defect detection may be performed on the “acquired defect,” as described in the specification on page 5, line 3, for example. In this way recording quality may be maintained for a write-once-read-many disk as well as a rewritable disk.

The Applicant notes that it may generally be conceived that considering such “acquired defect” in the detection process may result in degradation of the recording performance since the detection load is increased. In the present invention, however, the “acquired defect” is assessed based on a predetermined determination criterion and the defect detection process does not have to be performed when it is determined that the “acquired defect” is unlikely to cause any problems. In this way, recording quality may be maintained and recording performance may be prevented from being degraded.

Nakane and the other cited references neither teach nor suggest such features of the present invention related to the performing defect detection after recording user data, and because the “acquired defect” is generated during the recording of user data, performing defect detection on such “acquired defects” cannot be anticipated from the cited references.

Claim 1 recites “**determining whether to perform a defect detection process** on at least a portion of the recording area in which the data are recorded based on a predetermined determination criterion pertaining to recording attribute information of the data” (emphasis added). The Office Action asserts that this is shown by Nakane at col. 6, ll. 57-65, and by FIG. 10. Please note, however, Nakane discloses a process that *always* performs a defect detection process and merely determines the strictness of that process based on the type of data that is being recorded. FIG. 10 of Nakane demonstrates in step 1 that all data to be recorded is assigned a type of defect detection to be used on it. Step 7 of FIG. 10, which merely states “TAKE APPROPRIATE ACTION,” at most discloses that a defect detection process occurs at that step, with the “APPROPRIATE ACTION” being a defect detection process of varying strictness.

Nakane does not disclose or suggest “determining whether to perform a defect detection process” as required by claim 1. Independent claim 12 includes a similar limitation: “determination means for **determining** after the recording of the data **whether to perform a defect detection process**” (emphasis added). Claims 2, 7, and 20 are each dependent from claim 1 or 12, so each includes one of the above-listed limitations. The features of “determining whether to perform a defect detection process” and “determining after the recording of the data whether to perform a defect detection process,” at least one of which is required by each of claims 1, 2, 7, 12, and 20, are not disclosed or taught by Nakane or any of the cited references. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 1, 2, 7, 12, and 20 be withdrawn and the claims allowed.

Claim 22 stands rejected under 35 U.S.C. § 103(a) in light of Nakane, Hashimoto, and Numata (US 6,631,106). Claim 22 recites “**determining whether to perform a second verification process** on said portion of the recording area...” The Office Action asserts the same portions of Nakane discussed above show this limitation. As shown above, however, the limitation is not taught or disclosed by Nakane or any other cited reference. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claim 22 be withdrawn and the claim allowed.

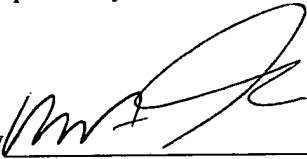
Claims 23 and 25 stand rejected under 35 U.S.C. § 103(a) in light of Takasago et al. (US 4,730,290), Hashimoto, and Numata. Claim 23 recites “***determining whether to perform a verification process on the portion of the recording area*** based on whether the size of the data is less than or equal to a threshold value.” Claim 25 recites “***determining whether to perform a verification process on the designated area*** based on whether the corresponding recording unit size of the portion of data is less than or equal to a threshold value.” The Action asserts that these limitations are disclosed by Takasago at column 3, lines 27-60. The cited portion of Takasago, as well as all other portions thereof, makes clear that the verification process, called “off-track detection” in Takasago, is always performed. The determination made by the apparatus disclosed in Takasago is whether the results of the verification should be given to the controller immediately and recording stopped (in the case of severe defects) or whether the defect should be noted to the controller after recording is complete so that the controller can rewrite the data from the defective region. This does not disclose “determining whether to perform a verification process on the designated area” as required by claims 23 and 25. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 23 and 25 be withdrawn and the claims be allowed.

As discussed above, each independent claim of the current application includes a limitation that is not disclosed or taught by any of the references cited or any combination thereof. All other pending claims are dependent from these independent claims and are also allowable for the same reasons. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 2, 3, 7, 8, 14, 20, and 21 be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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